

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Plaintiff,

vs.

TOWN OF NORTH BROOKFIELD,
Defendant.

Civil Action No. 03-40266-CBS

PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

Plaintiff, American Manufacturers Mutual Insurance Company ("AMMIC"), by way of undersigned counsel, hereby moves this Court to enter a protective order precluding the Defendant, Town of North Brookfield (the "Town"), and any other future party, from discovering the confidential financial information (not otherwise public knowledge) and the confidential "runoff" plan submitted to the Illinois Department of Insurance ("DOI"). AMMIC requests that said protective order protect AMMIC from all forms of discovery on these matters. This includes, but is not limited to, the preclusion of any and all written discovery and deposition questions to AMMIC or any other witness, person, corporation, government, municipality, or other entity relating to AMMIC's runoff plan or any other confidential information submitted to the DOI.

AMMIC further moves that this Court award AMMIC its attorney's fees and costs arising from the preparation, filing, and litigation of this Motion. As grounds for its Motion, AMMIC states the following:

1. The Motion should be allowed because this line of discovery is irrelevant to any claim or defense asserted in this litigation. Further, the Town seeks such information for the purpose of creating *another* opportunity at a preliminary injunction in order to ensure collection

of any money judgment in its favor. Such discovery activity is irrelevant to any claim or defense and premature as no judgment has entered against AMMIC.

2. The Motion should also be allowed because AMMIC has shown good cause, and justice requires that this Court protect AMMIC from the certain oppression that would accompany any disclosure. In particular, the runoff plan and other financial information submitted to the DOI are confidential, AMMIC is prohibited by Illinois law from disclosing them, and AMMIC's need to protect this information to effectuate its runoff far outweighs any argument the Town may submit to justify its need for such irrelevant information.

3. Finally, AMMIC is entitled to its fees and costs in obtaining said protective order because there is no justifiable reason for the Town to seek such irrelevant and confidential information. Its actions to do so has forced AMMIC to make this Motion

This Motion is further supported by a Memorandum of Law and Affidavits by Benjamin D. Schwartz and Deborah S. Griffin.

REQUEST FOR HEARING

AMMIC requests a hearing on this Motion.

CERTIFICATION OF CONFERENCE UNDER LOCAL RULE 37.1

The undersigned hereby certifies that she has conferred with counsel for North Brookfield and attempted in good faith to resolve or narrow the issues presented herein.

Respectfully submitted,

**AMERICAN MANUFACTURERS
MUTUAL INSURANCE COMPANY**

By its attorneys

HOLLAND & KNIGHT LLP

/s/ Deborah S. Griffin
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Dated: April 22 2005

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